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February 9, 2010

**VIA ECF**

Honorable Lois Bloom  
United States Magistrate Judge, EDNY  
United States District Court  
225 Cadman Plaza East  
Brooklyn, NY 11201

*Defendants shall file the stipulation  
of settlement by 3/5/10. If plaintiff  
fails to sign and return the stipulation  
to defendants' counsel, defendants may  
renew their instant request.*

Re: Curtis Lauderdale v. Owen Fronerberger et al., CV 09-1643 (BMC)(LB)

Your Honor:

*2/12/10*  
*[Signature]*

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to the defense of the above-referenced matter on behalf of defendants Owen Fronerberger and Kings County District Attorney Charles J. Hynes ("City defendants"). In that regard, I write to inform the Court that plaintiff *pro se* advised the undersigned today that he intends to withdraw all claims as against City defendants in this action because he does not have the time to prosecute the matter. Accordingly, defendants will immediately forward to plaintiff a Stipulation of Withdrawal and Dismissal, which plaintiff advised that he would sign and immediately return to the undersigned.

As the Court may be aware, discovery in this action is currently scheduled to close on February 10, 2010. Therefore, in the event that plaintiff reneges on his agreement to withdraw all claims as against City defendants, I write to respectfully request that City defendants be permitted to move the Court to: (1) compel plaintiff to respond to Defendants' Interrogatories and Request for Production of Documents, dated November 18, 2009 by a date certain; (2) issue an Order that if plaintiff does not comply with the Court's Order, his case will be dismissed, with prejudice, for failure to obey a Court Order; and (3) grant a corresponding forty-five (45) day extension of time from the date that defendants receive plaintiff's responses to defendants' discovery requests to complete all discovery. This would be defendants' first request for an extension of time to complete discovery.

By way of background, by Order dated July 14, 2009, the Court scheduled an initial pretrial conference pursuant to Fed. R. Civ. P. 16 for September 9, 2009. However, plaintiff failed to appear at the September 9, 2009 conference and did not contact the Court or defendants' counsel prior to the scheduled conference to request an adjournment. By Order

dated September 14, 2009, the Court issued plaintiff a warning that failure to timely appear at the following scheduled conference would result in the dismissal of his action pursuant to Fed. R. Civ. P. 16(f) and 37(b)(2)(A)(v). On November 10, 2009, the Court again held a pretrial conference pursuant to Fed. R. Civ. P. 16, and the parties were present. By Order dated November 12, 2009, the Court ordered the parties to complete all discovery by February 10, 2010. On November 18, 2009, defendants served Defendants' First Set of Interrogatories and Request for Production of Documents to Plaintiff upon plaintiff, and plaintiff's responses were due by December 18, 2009. On January 6, 2010, counsel for defendants contacted plaintiff by telephone in an effort to avoid court intervention regarding plaintiff's outstanding responses to defendants' discovery requests. Plaintiff advised counsel for defendants that he would send his responses to Defendants' Interrogatories and Request for Production of Documents by mail on January 8, 2010. To date, defendants have not received responses to their Interrogatories and Request for Production of Documents.

Plaintiff advised the undersigned today that he could no longer prosecute the matter and thus wanted to withdraw his claims. However, pursuant to Fed. R. Civ. P. 33, 34 and 37, in the event that plaintiff reneges on his agreement to withdraw all claims as against City defendants, defendants respectfully request the opportunity to move the Court: (1) for an Order to compel plaintiff to respond to Defendants' Interrogatories and Request for Production of Documents, dated November 18, 2009 by a date certain; and (2) to issue an Order that if plaintiff does not comply with the Court's Order, his case will be dismissed, with prejudice, for failure to obey a Court Order. Furthermore, City defendants also respectfully submit should plaintiff renege on his agreement to withdraw all claims that a corresponding extension of time to complete discovery would be necessary in order for defendants to process any releases plaintiff may provide with his discovery responses and to subsequently depose plaintiff.

I would like to assure the Court that we are attempting to move forward in this litigation as expeditiously as possible, and that the enlargement would be necessary in order for defendants to proceed effectively should plaintiff renege on his agreement to withdraw his case. Consequently, for the reasons set forth above, in the event that plaintiff reneges on his agreement to withdraw all claims as against City defendants, defendants respectfully request the opportunity to move the Court to: (1) compel plaintiff to respond to Defendants' Interrogatories and Request for Production of Documents, dated November 18, 2009 by a date certain; (2) issue an Order that if plaintiff does not comply with the Court's Order, his case will be dismissed, with prejudice, for failure to obey a Court Order; and (3) grant a corresponding forty-five (45) day extension of time from the date that defendants receive plaintiff's responses to defendants' discovery requests to complete all discovery.

I thank the Court for its time and consideration of this request.

Respectfully submitted,

/s/

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cc: Via First Class Mail  
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